

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES RYAN ELVERUD,

Defendant.

CR 22-4-M-DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Findings & Recommendation Concerning Plea. (Doc. 26.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Elverud is charged by indictment with one count of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1). (Doc. 2.) Judge DeSoto recommends that this Court accept Elverud's guilty plea as to this charge. The Court finds no clear error in Judge DeSoto's Findings and

Recommendation and adopts it in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 26) is ADOPTED in full.

IT IS FURTHER ORDERED that Elverud's motion to change plea (Doc. 18) is GRANTED.

IT IS FURTHER ORDERED that Elverud is adjudged guilty as charged in the Indictment.

DATED this 22nd day of June, 2022.



Dana L. Christensen, District Judge
United States District Court